

OCT 25 2006

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

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|------------------------------|---|--------------------------------|
| MYRNA JOSEPHINE HOLT WILSON, |) | |
| Petitioner, |) | Civil Action No. 7:06-cv-00605 |
| |) | |
| v. |) | MEMORANDUM OPINION |
| |) | |
| UNITED STATES OF AMERICA, |) | By: Samuel G. Wilson |
| Respondent. |) | United States District Judge |

Petitioner, Myrna Josephine Holt Wilson, a federal inmate proceeding pro se, has submitted to the court a motion to vacate, set aside or correct her sentence pursuant to 28 U.S.C. § 2255.¹ Upon review of the record, the court concludes that the action must be dismissed as successive.

I.

Wilson challenges her 210 month sentence for conspiracy to distribute heroin. Court records indicate that Wilson has previously filed a § 2255 motion, Civil Action No. 7:00-cv-00423 (W.D. Va.), regarding the same conviction and/or sentence. This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255 ¶ 8. As Wilson has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive §2255 motion, the court must dismiss her petition as successive.²

¹ Although Wilson entitled her motion a "motion for relief of sentence for lack of enactment of Title 18, subject matter, territorial jurisdiction, unqualified grand jury, inspection of jury list" the court believes that it is most appropriately construed as a motion pursuant to § 2255 because Wilson is challenging her federal conviction and sentence.

² Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive § 2255 motion. Petitioner must submit a copy

II.

For the reasons stated, the court denies Wilson's motion and dismisses it as a successive § 2255 petition.

The Clerk is directed to send certified copies of this Memorandum Opinion and the accompanying Order to all parties.

ENTER: This 25th day of October, 2006.


United States District Judge

of the successive § 2255 motion to the Court of Appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. See 28 U.S.C. § 2244 (as amended, 1996). A Fourth Circuit form and instructions for filing this motion will be included with this notice or are available from the Fourth Circuit at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.